



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on September 27, 2005

Date of Meeting: September 7, 2005

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:48 p.m. on Wednesday, September 7, 2005, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra
Carol W. West
Kathleen Dunbar
Shirley C. Scott
Steve Leal
Fred Ronstadt
Robert E. Walkup

Council Member Ward 1
Council Member Ward 2
Vice Mayor, Council Member Ward 3
Council Member Ward 4
Council Member Ward 5
Council Member Ward 6
Mayor

Absent/Excused:

None

Staff Members Present:

Mike Hein
Michael Rankin
Kathleen S. Detrick
Mike Letcher

City Manager
City Attorney
City Clerk
Deputy City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Pastor John Luttman, Real Life Christian Fellowship, after which the pledge of allegiance was presented by the entire assembly.

Presentation:

- a. Mayor Walkup proclaimed September 11, 2005 to September 17, 2005 to be "Minority Enterprise Development Week." Leondra Price and Glenn Fournie accepted the proclamation.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 469, dated September 7, 2005, would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Council to report on current events and asked if there were any reports.

- a. Council Member Scott reported that she and Supervisor Ray Carroll would host a Regional Transportation Town Hall on September 19, 2005 at Desert Sky Middle School.
- b. Council Member West announced a Regional Transportation Town Hall at Eastside City Hall on September 15, 2005. On September 17, 2005 Council Member Ronstadt and she would host a Town Hall at Udall Park. She also expressed her appreciation and thanks to the community. She said Tucson was a generous community and wanted to thank everyone for the part they had played in the relief efforts.
- c. Mayor Walkup reported on the events leading to the preparation of the Tucson Convention Center to accommodate Hurricane Katrina evacuees. He announced that eighty-five or eighty-six people had been received that day. He expressed the citizens of Tucson had done a magnificent job.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 470, dated September 7, 2005, would be received into and made a part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Mike Hein, City Manager, reported:

- a. The Tucson Convention Center had been prepared to house evacuees of Hurricane Katrina for the duration and transition into the community. There was a pharmacy, a hospital complete with care beds and physicians, counseling by Behavioral Health Services, job placement services, showers and even an animal

shelter. He also expressed how pleased and proud he was of all the City staff, citizens, volunteers, and organizations involved in the process.

- b. The Parks and Recreation Department received a National Football League (NFL) Youth Football grant in the amount of three thousand dollars in partnership with the Tucson Youth Football and Spirit Federation. The funding would be used for field and light rental expenses.
- c. The Edith Ball Adaptive Recreation Center received the 2005 Outstanding Facility Award for populations over a hundred thousand at the Arizona Parks and Recreation Association banquet on September 1, 2005.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 466, dated September 7, 2005, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Applications

New License

- 1. Raz Restaurant, Ward 3
1929 E. Grant Road
Applicant: Ernest Dale Krull
Series 12, City 63-05
Action must be taken by: September 9, 2005
Staff has indicated the applicant is in compliance with city requirements.
- 2. 7-Eleven #21814K, Ward 5
885 E. 22nd Street
Applicant: Nicolas Carl Guttilla
Series 10, City 65-05
Action must be taken by: September 12, 2005
Staff has indicated the applicant is in compliance with city requirements.
Public Opinion: Protest/Support Filed
Considered separately.
- 3. Quick Stuff, Ward 1
3030 W. El Camino del Cerro
Applicant: John Penrod Sutherland
Series 10, City 66-05
Action must be taken by: September 18, 2005
Staff has indicated the applicant is in compliance with city requirements.

Person/Person Transfer

4. Rhythmmm, Ward 6
2547 E. Broadway Blvd.
Applicant: Thomas Joseph Heath
Series 07, City 62-05
Action must be taken by: September 9, 2005
Staff has indicated the applicant is in compliance with city requirements.
5. The Office Bar, Ward 1
6333 S. 6th Avenue
Applicant: Marc Andrew Weiser
Series 06, City 64-05
Action must be taken by: September 12, 2005
Public Opinion: Support Filed
Staff has indicated the applicant is in compliance with city requirements.

c. Special Event

1. Arizona Theatre Company, Ward 6
330 S. Scott Avenue
Applicant: Eileen Marie Bagnall
City T60-05
Date of Event: September 24, 2005
Annual Benefit
Staff has indicated the applicant is in compliance with city requirements.
2. Tucson Lesbian & Gay Alliance, Inc., Ward 6
900 S. Randolph Way
Applicant: Brian Kelly Fox
City T61-05
Date of Event: October 8, 2005
Outober Fest – Annual LGBT Pride Festival
Staff has indicated the applicant is in compliance with city requirements.
3. North Fourth Avenue Merchants Association, Ward 6
329 E. 7th Street
Applicant: Daniel George Matlick
City T62-05
Date of Event: December 9, 10, 11, 2005
Fundraising Community Event
Staff has indicated the applicant is in compliance with city requirements.

4. The Junior League of Tucson, Ward 6
3400 E. Camino Campestre
Applicant: Susanna Alicia Alvarez
City T63-05
Date of Event: October 7, 2005
Fundraiser & Rummage Sale
Staff has indicated the applicant is in compliance with city requirements.
5. Our Lady Queen of All Saints, Ward 5
2915 E. 36th Street
Applicant: Darlene Dooley
City T64-05
Date of Event: September 23, 24, 2005
Staff has indicated the applicant is in compliance with city requirements.
6. Roadrunner Civitan Club, Ward 5
4823 S. 6th Avenue
Applicant: Suzanne J. Gross
City T65-05
Date of Event: October 15, 16, 2005
Staff has indicated the applicant is in compliance with city requirements.
7. Sacred Heart Church, Ward 3
601 E. Ft. Lowell Road
Applicant: Mercedes G. Saenz
City T66-05
Date of Event: October 8, 2005
Staff has indicated the applicant is in compliance with city requirements.
8. Santa Rita Exchange Club, Ward 6
900 S. Randolph Way
Applicant: Richard Domonic Medran
City T69-05
Date of Event: September 17, 2005
Staff has indicated the applicant is in compliance with city requirements.
9. Hands Across the Border Foundation, Ward 1
40 W. Broadway Blvd.
Applicant: Alicia Sanchez Bristow
City T71-05
Date of Event: September 15, 2005
Staff has indicated the applicant is in compliance with city requirements.

It was moved by Council Member West, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1, 5b3 through 5b5 and 5c1 through 5c9 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

b. New license

2. 7-Eleven #21814K, Ward 5
885 E. 22nd Street
Applicant: Nicolas Carl Guttilla
Series 10, City 65-05
Action must be taken by: September 12, 2005
Staff has indicated the applicant is in compliance with city requirements.
Public Opinion: Protest/Support Filed

Kathleen S. Detrick announced Item 5b2, a request for a new license, would be considered separately. The license had a protest filed and is located in Ward 5. Staff indicated the applicant was in compliance with city requirements.

Council Member Leal asked if the applicant or a representative was present.

Nicholas Guttilla, Attorney representing 7-Eleven Corporation, stated that location had been licensed with a Series 10 license since 1979. He reported a computer check back to 1984 had been done and there was one liquor violation in 2000. One letter of protest was received from the Santa Rita Park Neighborhood Association. He felt that if the letter was analyzed, it was really a protest against Quik Mart, which was about six or eight blocks away. He added they met with the South Park Neighborhood Association, which was the neighborhood association where the store was located. He said the neighborhood association wrote a letter of support after their meeting with them and had no problem with the store. He said 7-Eleven agreed to monitor loitering and also agreed to eliminate some of the low budget singles at the location. He told the Council he would be happy to answer any questions.

Council Member Leal asked if Mr. Guttilla had a copy of the neighborhood association's letter of support.

Mr. Guttilla replied he did and the City Clerk distributed copies to the Mayor and Council.

Council Member Leal stated there was some information which was not in the write-up and was not part of what the Council typically looked at to give them guidance or overview. He felt the area was very unique, unlike any other area the Council looks at. There were two locations; the 7-Eleven location and the Quik Mart down the street. Council Member Leal stated that Santa Rita Park had almost become unusable by the local community, because of the amount of abuse of alcohol by homeless and others in the area. He said there was a phrase used by the Fire Department called "man down." There was also a log used to keep record of calls for "man down" on every phone in the City of Tucson. The Fire Department told him the pay phone between the two locations

had the most calls for “man down.” That total was more calls than the next four phone locations added together.

Firefighters have expressed their frustration to him, because it was often the same people. They had made the comment to him - “what if your father or grandmother had a heart attack and they were in the mist of hauling the same drunk to the emergency room that they hauled numerous times before.”

Council Member Leal said the Council often looked at the question of saturation with regard to a density of licenses within an area and whether the burden of showing proof that convenience was absent and thus satisfied by allowing the license. Some communities had phrases referred to as liquor saturation areas. He said the area in question was in fact a liquor saturation area.

Council Member Leal continued that the neighborhood association was not aware of the underlying statistics for “man down” in the area. He appreciated their intentions just by looking at the history of the site, as opposed to the overall context of that activity of the customers frequenting both stores. He said he could not in good conscience support the continuation of one of the licenses in that area that was partly responsible for having such a number for “man down.” He remembered that a couple of years ago the Council turned down a license for a Circle K at Main and Speedway, which had been there for years. Because of what had been happening in the area and the burden on that area, the Council had to say no. He said he did not mean it had anything to do with Mr. Guttilla’s customers, but because he was aware of what the number meant for “man down” in that area, he felt compelled to make a recommendation of denial.

Mr. Guttilla responded that when they met with the South Park Neighborhood Association, one of the issues was the Santa Rita Park. He said the association was very candid about the park. The association representatives did not believe the people in the park would travel six blocks to the 7-Eleven store to purchase alcohol and then travel six blocks back to the park. They thought the people bought their alcohol at the Quik Mart, which was across the street from the park. They were told that the association did not blame 7-Eleven for that.

Council Member Leal continued that people coming west to the park would stop at the 7-Eleven. He said it was just a fifty fifty deal.

Note: Council Member Ronstadt departed at 6:05 p.m. and returned at 6:09 p.m.

Mayor Walkup asked if there was any further discussion. There was none.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 4 to 2, (Council Member West and Vice Mayor Dunbar dissenting; and Council Member Ronstadt absent/excused), that license application 5b2, 7-Eleven #21814K, be forwarded to the Arizona State Liquor Board with a recommendation for denial.

6. CONSENT AGENDA – ITEMS A THROUGH T

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda.

- A. GRANT APPLICATION: FEDERAL TRANSIT ADMINISTRATION GRANT APPLICATION FOR FISCAL YEAR 2005
 - 1. Report from City Manager SEPT7-05-467 CITY-WIDE
 - 2. Resolution No. 20164 relating to transportation; authorizing and approving the submission of a Federal Transit Administration (FTA) Section 5307 Capital Grant Application for Fiscal Year 2005; and declaring an emergency.
- B. GRANT APPLICATION: FEDERAL TRANSIT ADMINISTRATION GRANT APPLICATION FOR FISCAL YEAR 2005
 - 1. Report from City Manager SEPT7-05-468 CITY-WIDE
 - 2. Resolution No. 20165 relating to transportation; authorizing and approving the submission of a Federal Transit Administration (FTA) Section 5309 Capital Grant Application for Fiscal Year 2005; and declaring an emergency.
- C. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE JULIAN WASH NEIGHBORHOOD REINVESTMENT PROJECT
 - 1. Report from City Manager SEPT7-05-464 WARD 5
 - 2. Resolution No. 20166 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Pima County for the Julian Wash Neighborhood Reinvestment Project; and declaring an emergency.
- D. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE JULIA-KEEN NEIGHBORHOOD REINVESTMENT PROJECT
 - 1. Report from City Manager SEPT7-05-465 WARD 5
 - 2. Resolution No. 20167 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Pima County for the Julia-Keen Neighborhood Reinvestment Project; and declaring an emergency.

E. ASSURANCE AGREEMENT: (S03-001) LAKESIDE RIDGE SUBDIVISION (RCP), LOTS 1 TO 68 AND COMMON AREA "A"

1. Report from City Manager SEPT7-05-472 WARD 4
2. Resolution No. 20168 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S03-001 of a Final Plat for the Lakeside Ridge Subdivision, Lots 1 to 68 and Common Area "A"; and declaring an emergency.

Item E considered separately at the request of Council Member Scott.

F. FINAL PLAT: (S03-001) LAKESIDE RIDGE SUBDIVISION (RCP), LOTS 1 TO 68 AND COMMON AREA "A"

1. Report from City Manager SEPT7-05-471 WARD 4
2. The City Manager recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

Item F considered separately at the request of Council Member Scott.

G. REAL PROPERTY: VACATION AND CONVEYANCE OF RIGHTS OF WAY LOCATED ON STELLA ROAD AND SARNOFF DRIVE TO THE ADJOINING PROPERTY OWNER

1. Report from City Manager SEPT7-05-474 WARD 4
2. Ordinance No. 10194 relating to real property; vacating and declaring portions of certain city-owned property located along Stella Road and Sarnoff Drive to be surplus and authorizing the conveyance thereof to the adjoining property owner at no cost pursuant to the Mayor and Council Paper Plat Policy; and declaring an emergency.

H. FINANCIAL PARTICIPATION AGREEMENT: WITH TUCSON UNIFIED SCHOOL DISTRICT FOR FISCAL YEAR 2006

1. Report from City Manager SEPT7-05-473 CITY-WIDE
2. Resolution No. 20169 relating to Financial Participation Agreements; authorizing and approving the Financial Participation Agreement with Tucson Unified School District for Fiscal Year 2006 for cable television programming; and declaring an emergency.

- I. ELECTION: CALLING A CHARTER AMENDMENT SPECIAL ELECTION ON NOVEMBER 8, 2005 FOR A PROPOSITION RECOMMENDED BY THE CITIZENS' COMMISSION ON PUBLIC SERVICE AND COMPENSATION
1. Report from City Manager SEPT7-05-477 CITY-WIDE
 2. Ordinance No. 10195 relating to elections; pursuant to Article XIII, Section 2 of the Arizona Constitution and to Chapter IV, Section 1(20), Chapter V, Section 9, and Chapter XVI, Section 6 of the Charter of the City of Tucson, calling a special election to be held on November 8, 2005, for the purpose of submitting to the City's qualified electors a proposed amendment to Chapter V, Sections 8 and 9 of the Charter, recommended by the Citizens' Commission on Public Service and Compensation, to increase the salary of the Mayor from \$3,500 per month to \$4,340 per month and the salary of each of the members of the Council from \$2,000 per month to \$2,480 per month; and declaring an emergency.
- J. REAL PROPERTY: APPROVING A LEASE AGREEMENT WITH SPRINT SPECTRUM, L.P. FOR A CELLULAR ANTENNAE ARRAY AT 2553 SOUTH PANTANO ROAD
1. Report from City Manager SEPT7-05-462 WARD 4
 2. Ordinance No. 10196 relating to real property; authorizing and approving the lease of a portion of city-owned real property located on the east side of Pantano Road, north of Golf Links Road, Tucson, Arizona, to Sprint Spectrum, L.P. for installation of a cellular array; and declaring an emergency.
- K. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE PROVISION OF TWICE-A-DAY INITIAL COURT APPEARANCES
1. Report from City Manager SEPT7-05-478 CITY-WIDE
 2. Resolution No. 20170 relating to Intergovernmental Agreements; approving and authorizing an Intergovernmental Agreement with Pima County on behalf of Pima County Superior Court and Pima County Consolidated Justice Courts for the provision of Twice-A-Day Initial Appearances; and declaring an emergency.
- L. BOARDS, COMMITTEES AND COMMISSIONS: SUNSETTING THE BARRAZA AVIATION PARKWAY CITIZEN ADVISORY COMMITTEE, AND CREATING THE DOWNTOWN LINKS CITIZEN ADVISORY COMMITTEE
1. Report from City Manager SEPT7-05-475 WARDS 1 AND 6

2. Resolution No. 20171 relating to Boards and Commissions; dissolving the Barraza Aviation Citizen Advisory Committee; creating the Downtown Links Citizen Advisory Committee; and declaring an emergency.

M. FINANCE: CONTINGENCY FUND TRANSFER FOR “SUPPORT AMERICA, SUPPORT OUR TROOPS”

1. Report from City Manager SEPT7-05-479 WARD 3
2. Resolution No. 20172 relating to Finance; approving and authorizing the transfer of three hundred dollars (\$300) from the Contingency Fund to Organization 001-183-1838-268, to offset some of the expenses of a “Support America, Support Our Troops” rally; and declaring an emergency.

This was a request by Vice Mayor Dunbar. Allocation of funds was as follows:
Vice Mayor Dunbar - \$300.00

N. COMMUNITY DEVELOPMENT: AUTHORIZING THE DIRECTOR OF COMMUNITY SERVICES TO EXECUTE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) DOCUMENTS

1. Report from City Manager SEPT7-05-483 CITY-WIDE
2. Resolution No. 20173 relating to Community Development and Public Housing Programs of the U.S. Department of Housing and Urban Development (HUD); authorizing and directing the Director of the City of Tucson Community Services Department or designee to execute various U.S. Department of Housing and Urban Development (HUD) forms, documents, budgets, certifications and related documents and to act as the certifying officer for HUD related environmental documents under the national Environmental Policy Act of 1969; and declaring an emergency.

O. AGREEMENT: BETWEEN THE U.S. DEPARTMENT OF THE TREASURY AND TUCSON POLICE DEPARTMENT FOR THE FEDERAL EQUITABLE SHARING PROGRAM

1. Report from City Manager SEPT7-05-482 CITY-WIDE
2. Resolution No. 20174 relating to law enforcement; approving and authorizing the Tucson Police Department to enter into a Federal Equitable Sharing Agreement with the U.S. Department of the Treasury; and declaring an emergency.

P. APPROVAL OF MINUTES

1. Report from City Manager SEPT7-05-485 CITY-WIDE
2. Approval of minutes for the special meeting of the Mayor and Council held on August 2, 2005 and regular meeting of the Mayor and Council held August 2, 2005.

Q. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY SUPERIOR COURT FOR ADMINISTRATIVE OVERSIGHT OF CITY COURT

1. Report from City Manager SEPT7-05-490 CITY-WIDE
2. Resolution No. 20175 relating to City Court; approving an Intergovernmental Agreement between the City of Tucson and the Pima County Superior Court for the provision of City Court Administration; and declaring an emergency.

R. ASSURANCE AGREEMENT: (S02-035) TANQUE VERDE LA RIENDA SUBDIVISION, LOTS 1 TO 6 AND COMMON AREAS "A", "B", "C", "D", AND "E" (CONTINUED FROM THE MEETING OF AUGUST 2, 2005)

1. Report from City Manager SEPT7-05-488 WARD 2

This item was continued to the Meeting of September 13, 2005 at the request of staff.

S. FINAL PLAT: (S02-035) TANQUE VERDE LA RIENDA SUBDIVISION, LOTS 1 TO 6 AND COMMON AREAS "A", "B", "C", "D", AND "E" (CONTINUED FROM THE MEETING OF AUGUST 2, 2005)

1. Report from City Manager SEPT7-05-489 WARD 2

This item was continued to the Meeting of September 13, 2005 at the request of staff.

T. CITY OF TUCSON: PROCLAMATION DECLARING A STATE OF EMERGENCY AND REQUESTING FUNDING FOR PROVIDING ASSISTANCE TO HURRICANE KATRINA EVACUEES.

1. Report from City Manager SEPT7-05-491 CITY-WIDE
2. Resolution No. 20176 resolution of the City of Tucson declaring a State of Emergency resulting from Hurricane Katrina affecting the City of Tucson.

It was moved by Vice Mayor Dunbar, duly seconded, that Consent Agenda Items A through T, with the exception of Items E and F, which would be considered separately, and Items R and S, which were continued, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was further discussion. Upon hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Consent Agenda Items A through T, with the exception of Items E, F, R and S, were declared passed and adopted by a roll call vote of 7 to 0.

E. ASSURANCE AGREEMENT: (S03-001) LAKESIDE RIDGE SUBDIVISION (RCP), LOTS 1 TO 68 AND COMMON AREA "A"

1. Report from City Manager SEPT7-05-472 WARD 4
2. Resolution No. 20168 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S03-001 of a Final Plat for the Lakeside Ridge Subdivision, Lots 1 to 68 and Common Area "A"; and declaring an emergency.

F. FINAL PLAT: (S03-001) LAKESIDE RIDGE SUBDIVISION (RCP), LOTS 1 TO 68 AND COMMON AREA "A"

1. Report from City Manager SEPT7-05-471 WARD 4
2. The City Manager recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

Kathleen S. Detrick, City Clerk, announced Consent Agenda Items E and F would be considered separately. These items were removed at the request of Council Member Scott.

Council Member Scott said these were housing projects that impacted the Atterbury Wash. They had requested a special fund be established, and it had been, to which people could make a donation so the wash could continue to be preserved. She

understood there was no stipulation on this particular funding as to specific areas, but it should be used in the Atterbury Wash.

Council Member Scott announced she would approve Consent Agenda Items E and F, but requested staff to approach the new owner of the property and ask that they make a similar donation to the fund. She asked Ernie Duarte, Development Services Director, if this had been done.

Ernie Duarte, Director of Development Services, said they had not had an opportunity to do that, but they would follow up.

Council Member Scott thanked Mr. Duarte. She said it was very important to the people who lived in the area that the Atterbury Wash be preserved and this was a mechanism by which it could be continued.

It was moved by Council Member Scott, duly seconded, that Consent Agenda Items E and F, with the caveat that staff pursue a donation toward the Atterbury Wash fund, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any further discussion. Upon hearing none, he asked for a roll call vote on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Consent Agenda Items E and F were declared passed and adopted by a roll call vote of 7 to 0.

7. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except items scheduled for a public hearing. Speakers would be limited to three-minute presentations and the Call to the Audience was scheduled to last for thirty-minutes. He asked if there was anyone in the audience who wished to address the Council.

- a. Dominic Bermudez discussed the renaming of Twenty Second Street to Cesar Chavez Boulevard and First Avenue to Dr. Martin Luther King Jr. Boulevard. He would be meeting with the Citizens' Transportation Advisory Committee on November 7, 2005 to discuss the matter and he intended to gather enough signatures to have this item placed on the ballot.

- b. Jim Lockier, host of the TV series Freedom Watch, expressed his anger at the Tucson Police Department over alleged harassment, assault and false imprisonment that occurred on August 17, 2005. He felt it was in retaliation for hosting the show. He announced his intention to sue the City of Tucson.
- c. Michael Toney pointed out unpublicized design and plan changes and design flaws of the proposed University of Arizona Science Center Bridge. He also felt a pedestrian bridge over the interstate was unnecessary, and expressed dislike of the project because he felt it was ugly and a poor use of money.
- d. Bishop Chicago discussed the two sides of Tucson. He said the good side was the coming together to help other Americans with the other side being the lack of support for the local poor citizens of Tucson and policies negatively targeting immigrants from Mexico. He also expressed anger over noise from trains and airplanes, and the proximity of liquor stores and smoke shops to the schools and neighborhoods.
- e. Dick Basey expressed his concern over Aviation Parkway and changes to the approved plan. He indicated that false documents and plans were presented by Pima Association of Governments. He requested a City Attorney review to determine if the document was false or falsified and if the Fourth Avenue underpass was a product of this body of work.

8. PUBLIC HEARING: TUCSON CODE (CHAPTER 6) ADOPTION OF THE 2003 INTERNATIONAL MECHANICAL CODE WITH LOCAL AMENDMENTS, THE 2003 INTERNATIONAL FUEL GAS CODE, AND THE 2003 STATE PLUMBING CODE (CONTINUED FROM THE MEETING OF AUGUST 2, 2005)

Mayor Walkup announced City Manager's communication number 487, dated September 7, 2005, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on the adoption of the *2003 International Mechanical Code* with local amendments; the *2003 International Fuel Gas Code*; and the *2003 State Plumbing Code*. The public hearing was scheduled to last for no more than one hour. Speakers would be limited to five-minute presentations. Mayor Walkup asked if anyone wished to address the Council on the item.

James Tripp, member of the Board of Appeals for the City Building Codes, said he appreciated the appointment. He had not reviewed any cases yet, as they had been doing a great job of not having any to review. He said until he received a phone call from Dave Mann's office and from Betsy Cottle, he had never sat down and compared line item by line item in the *International Mechanical Code* compared to the *Uniform Mechanical Code*. He felt the *International Mechanical Code* was not a make or break issue. What he found was that there were several line items when compared that were not covered in the *International Mechanical Code*, but were covered under the *Uniform Mechanical Code*. He also felt the City would not have to adopt the *Fuel Gas Code* if it

adopted the *Uniform Mechanical Code*, because it was included. He said the “I” codes referred to the *Fuel Gas Codes*. He thought the biggest problem was that the City missed the deadline last September to approve the *2003 Codes*. The codes were updated every three years and in four months they would be updated again for 2006. In four months time the City would be out of a code package again and would need to renew the code. He agreed it was a primary importance to the industry, the second largest in the state, to stay current to protect citizenry. He felt the City was missing an opportunity to take four months to either appoint a commission or even the Board of Appeals to review the codes, to make recommendations, and to accept the recommendations at the beginning of the next code cycle to fulfill a full three years of the code cycle.

Mr. Tripp added that the community had been living with a *1994 Plumbing Code* in the State of Arizona since 1997. No one would adopt a change because they were afraid there would be a big fight like there was to get the *1994 State-Wide Plumbing Code*. He thought the City should take this opportunity and that was his recommendation. He asked the Mayor and Council to investigate the real options and consider, for the last three months of this year, comparing the codes and accepting the recommended new and updated code packages at the beginning of the code cycle so they would not have to do this every other year.

Council Member Leal asked Mr. Tripp to go over some points he felt would be problematic if the Council followed the City Manager’s recommendations. He thought it would be helpful for the Council.

Mr. Tripp replied that the *International Codes* were designed and set up and only upgraded or changed by the mechanical engineers and architects in the industry. He said they did not take input from the people on the job, the users, or homeowners. He felt there would be a big problem the homeowners in Tucson would encounter in the next few years with new home growth. Under the *International Code*, everything was a patented system. The engineers stamp the drawings that went through City planning and zoning, then they went to job sites where individuals installed the work per plans and specifications. However, City inspectors did not inspect those homes because the homes were patented by architects and engineers. He thought the issue that would come up when the homeowners decided to update or remodel those homes, and no one would want to take on the liability that went along with those patented systems. Currently, the City gave a permit to homeowners who wanted to upgrade any of those safety systems, and the City took on a certain liability when they did that because they had to send out an inspector to make sure the upgrades were installed within the Code. He felt with the way the *International Codes* were and the way the homes were built, the City may not have the option or ability to accept the liability of changing these patented homes. The homeowners may not have the opportunity to upgrade or change their homes that were manufactured under these patented loops.

Council Member Leal said he understood Mr. Tripp felt homeowners would be forced to go back to the initial architect and contractor to do the work they needed. He asked if it locked the homeowner into that.

Mr Tripp said that was possible.

Council Member West said she thought it was a public hearing and not an interaction. She did not think it was appropriate for Council Members to interrupt speakers during a public hearing.

Council Member Leal said he was soliciting information and it was a common practice.

Council Member West said that should come after the public hearing was over. There might be other people who wished to speak.

Mayor Walkup stated he thought it was okay for some questions but asked the Council to limit the conversation.

Mr. Tripp said his point was that if everything was a patented system under the *International Codes*, then the homeowners might be stuck with the situation where they had to go back to those architects and engineers to get them to upgrade their plans to make changes to their homes. He said it was not a hundred percent of the case, but it was potentially the case. He felt they would protect their market share the best they could. If they had a patented system and they had stamped it and no one else would take the liability, then that was what would happen.

Mayor Walkup asked if anyone else wished to speak. There was no one.

It was moved by Council Member Ronstadt, duly seconded, and carried by a voice vote of 6 to 1 (Council Member Leal dissenting), to close the public hearing.

Mayor Walkup asked if there was any further discussion.

Council Member West asked Ernie Duarte to respond to the comments made by Mr. Tripp. She believed the item had been delayed because they did not have approvals from everyone, and they now had those. She said after hearing this new information she wanted a response from Mr. Duarte.

Ernie Duarte, Development Services Director, said it was correct that the item was continued from the August 2, 2005 meeting to allow the department to do further outreach with their customer groups and stakeholders. Consequently, they received additional letters of support from their customers. He commented that the City Clerk passed out letters from the Alliance of Construction Trades and Qualified Mechanical. He said he could not answer the question of the *International Codes* inhibiting upgrades and remodels, as he had not seen any pattern where the *International Codes* had inhibited upgrades and remodels. The City of Tucson had been under the international family of codes, with the exception of the *State Plumbing Code*, for at least five years.

Development Services had not seen a decrease in the number of remodeling permits as a result of that.

Mr. Duarte answered that under the City system, City inspectors would continue to perform that function, both at the plan check stage and the installation stage. It would not be deferred to private sector inspections.

Mr. Duarte responded to Council Member Leal stating that it was not a back door way of privatizing inspections.

Council Member Scott, said there was a comment by the speaker that these codes were going to be reviewed in just a few months. She asked Mr. Duarte to explain why the City was rushing and why the City did not take more time.

Mr. Duarte responded that the codes were typically reviewed at the national level before they were passed to the local jurisdictions for review and there was a lag time associated with that process. The review of the current codes under consideration had been going on for some time and the next version of the codes would be taken up at the national level in a few months. If the City deferred the adoption, the possibility existed that it could be another two to four years before the City would be able to adopt another updated code, which would put it further behind.

Council Member West asked what the ramifications would be if the codes were not passed this meeting.

Mr. Duarte said the City would still be working with outdated codes, especially in the plumbing area. The City was working with a *State Plumbing Code* that was eleven years old and included outdated technology and outdated installation methodology. The plumbing industry had been pushing the department to update the *Plumbing Code* because of problems created out in the field.

Council Member West asked Mr. Duarte to confirm that the homeowners were being jeopardized now and therefore important that the item be passed.

Mr. Duarte said he believed that was correct.

Mayor Walkup asked if there was any further discussion. Upon hearing none, he asked the City Clerk to read Ordinances 10182, 10183, and 10184, by number and title only.

Ordinance No. 10182 relating to Buildings, Electricity, Plumbing and Mechanical Code; amending the Tucson Code Chapter VI, Buildings, Electricity, Plumbing and Mechanical Code, Article VI Mechanical Code Section 6-164 Mechanical Code Adopted; providing for a penalty; establishing an effective date; and declaring an emergency.

Ordinance No. 10183 relating to Buildings, Electricity, Plumbing and Mechanical Code; amending the Tucson Code Chapter VI, Buildings, Electricity, Plumbing and Mechanical Code, Article VI Mechanical Code by adding Section 6-167 Fuel Gas Code; providing for a penalty; establishing an effective date; and declaring an emergency.

Ordinance No. 10184 relating to Buildings, Electricity, Plumbing and Mechanical Code; amending the Tucson Code Chapter VI, Buildings, Electricity, Plumbing and Mechanical Code, Article V Plumbing Code Section 6-124 Plumbing Code Adopted; providing for a penalty; establishing an effective date; and declaring an emergency.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10182.

Mayor Walkup asked if there was any further discussion. Upon hearing none, he asked for a roll call vote on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: Council Member Leal

Ordinance 10182 was declared passed and adopted by a roll call vote of 6 to 1.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10183.

Mayor Walkup asked if there was any further discussion. Upon hearing none, he asked for a roll call vote on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: Council Member Leal

Ordinance 10183 was declared passed and adopted by a roll call vote of 6 to 1.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10184.

Mayor Walkup asked if there was any further discussion. Upon hearing none, he asked for a roll call vote on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: Council Member Leal

Ordinance 10184 was declared passed and adopted by a roll call vote of 6 to 1.

9. PUBLIC HEARING: PROPOSED DIAMOND BELL ISOLATED WATER SYSTEM FEE

Mayor Walkup announced City Manager's communication number 476, dated September 7, 2005, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on the proposed Diamond Bell Isolated Water System Fee. The public hearing was scheduled to last for no more than one hour. Speakers would be limited to five-minute presentations. Mayor Walkup asked if anyone wished to address the Council on this item.

Lori Lustig, representing Southern Arizona Home Builders Association (SAHBA), reported they had an opportunity to meet with their developer member who was directly affected in the Diamond Bell Isolated Water System. They all had an opportunity to meet with David Modeer, Utility Services Director, and his staff and she was pleased to report that Mr. Modeer and their member reached agreement on what was being presented. She said the Southern Arizona Home Builders Association was comfortable with the item being passed.

Mayor Walkup asked if there was anyone else wishing to be heard on the item. There was no one.

It was moved by Council Member Ronstadt, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup announced that consideration of the proposed fee had been scheduled for the September 27, 2005 meeting.

10. ZONING: RECONSIDERATION OF ORDINANCE 10162 RELATING TO (C9-03-24) ABRAMS/ACEDO – 4TH STREET (CONTINUED FROM THE MEETING OF AUGUST 2, 2005)

Mayor Walkup announced City Manager's communication number 480, dated September 7, 2005, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10162 by number and title only.

Ordinance No. 10162 relating to zoning: amending zoning district boundaries in the area located on the south side of 4th Street between Richey Boulevard and Dodge Boulevard in Case C9-03-24, Abrams/Acedo – 4th Street, R-1/R-2 to R-2; and setting an effective date.

Kathleen S. Detrick, City Clerk, informed the Mayor and Council that this item would require a three quarters vote in order to be adopted.

Council Member Leal thanked City staff, neighbors and the Abrams family. He said they had worked for some time to modify the initial proposal to get it to a point where the neighborhood and adjacent neighbors, and the developer and staff were all on the same page as to the conditions and design.

It was moved by Council Member Leal, and duly seconded, to pass and adopt Ordinance 10162.

Mayor Walkup asked if there was any further discussion. Upon hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members West, Scott, Leal and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: Council Member Ibarra

Ordinance 10162 was declared passed and adopted by a roll call vote of 6 to 1.

11. ZONING: (C9-00-21) BROADWAY HARRISON LLC – HARRISON ROAD, SR TO R-2, CHANGE OF CONDITIONS AND ORDINANCE ADOPTION (CONTINUED FROM THE MEETING OF AUGUST 2, 2005)

Mayor Walkup announced City Manager's communication number 481, dated September 7, 2005, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10192 by number and title only.

Ordinance No. 10192 relating to zoning: amending zoning district boundaries in the area located at the northwest corner of Broadway Boulevard and Harrison Road in Case C9-00-21, Broadway Harrison LLC – Harrison Road, SR to R-2; and setting an effective date.

Council Member West said she wanted to affirm that the approved development plan was for seventeen one story single family detached residential units.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10192.

Mayor Walkup asked if there was any further discussion. Upon hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Ordinance 10192 was declared passed and adopted by a roll call vote of 7 to 0.

12. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 463, dated September 7, 2005, would be received into and made a part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 7 to 0, to approve the appointment of Jeffrey Handt to the Commission on Disability Issues; Kacey Carleton to the Design Review Board; Cathleen Becskehazy to the Pima County / Tucson Women's Commission; and reappoint Council Member Steve Leal to the Metropolitan Education Commission.

Mayor Walkup asked if there were any personal appointments to be made.

Council Member Dunbar appointed Timothy Dunne as the Ward 3 appointee to the Tucson Human Relations Commission.

13. ADJOURNMENT 6:55 p.m.

Mayor Walkup announced the Council would stand adjourned until its next regularly scheduled meeting to be held on Tuesday, September 13, 2005, at 3:00 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 7th day of September 2005, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:jr/sac